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ABSTRACT

These materials include the script for a mock trial in which students are asked to role play the participants in a case based on the facts of New Jersey v. T.L.O., 469 U.S. 325 (1985). The case raised questions involving a students' rights to protection against unreasonable searches and seizures under the Fourth Amendment and schools' needs to maintain an environment free of illegal drugs. In addition to the script for the trial, the materials include background information on the facts of the case and on the development of the law under the Fourth Amendment. (DB)

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# THE ELI LILLY CENTER
# for
# EXPLORATION
# (CFX)
# *COURT ROOM SIMULATION*

**State of Indiana v. Jamie L. Curtis**

***"The Case of the Questionable Book Bag Search"***

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Written by Robert S. Leming
with the assistance of the
CFX Staff
1992

**Based on New Jersey v. T.L.O. 469 U.S. 325 (1985)**

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## THE FOURTH AMENDMENT

The right of the people to be secure in their
persons, houses, papers, and effects, against unreasonable
searches and seizures, shall not be violated, and no
Warrants shall issue, but upon probable cause, supported
by Oath or affirmation, and particularly describing
the place to be searched, and the persons or things to be seized.

In 1963, Justice William J. Brennan, in Lopez v. United States (373 U.S. 427) said, "The evil of the general warrant is often regarded as the single immediate cause of the American Revolution." The inclusion to the Fourth Amendment in the Bill of Rights was a direct result of the American colonies experience under British law that allowed for writs of assistance. During the years immediately preceding the American Revolution, these general warrants legalized arbitrary searches and seizures of persons and property. After the Bill of Rights was radified in 1791, it was clear that the Fourth Amendment did not protect individuals from all searches and seizures, only unreasonable ones. In fact, like all of the other nine amendments included in the Bill of Rights, provisions outlined in the Fourth Amendment only applied to the federal government. At the state and local levels, citizens were protected through states' Bills of Rights. A citizen's protection against unreasonable searches and seizures conducted by local or state authorities varied, depending upon local and state law enforcement agency guidelines.

In 1914, the U.S. Supreme Court anchored the basic doctrine of the Fourth Amendment in the landmark case of Weeks v. United States (232 U.S. 383). The Court suggested that by using the exclusionary rule, evidence gathered in an illegal manner i.e., without probable cause or without a search warrant, should be excluded from court proceedings. In other words, evidence gathered in a manner that violates the Fourth Amendment should not be used against the accused. This decision only applied to federal courts and as a result two thirds of the state court systems rejected the exclusionary rule. Many state courts believed that the rule placed an unnecessary burden on the police and that it favored the guilty.

In 1949, the U.S.Supreme Court rejected the argument offered by the petitioner in Wolf v. Colorado (338 U.S. 25, 1949) that suggested that the exclusionary rule ought to apply to the states because the exclusionary rule protects basic Fourth Amendment rights which are a necessary part of the due process of law. Under the Fourteenth Amendment, no state can deprive any citizen of due process, therefore the exclusionary rule should apply the state cases. The Court argued that since the exclusionary rule was not directly mentioned in the U.S. Constitution or Bill of Rights and the rule was not the only way to protect citizens, states should not be forced to adhere to the rule.

In 1961, the U.S. Supreme Court decided the case of Mapp v. Ohio (367 U.S. 643) which expanded the rights of the accused by applying the exclusionary rule to all criminal trials both state and federal.

The case began on May 23, 1957, when the Cleveland police knocked on Ms. Mapp's door looking for a fugitive from justice. Ms. Mapp refused to let the police enter because they did not have a search warrant. The police left but returned three hours later and demanded entry. Because Ms. Mapp did not respond, the police broke into the house. Standing in a hallway, she asked to see a search warrant. A police officer waved a piece of paper in front of Ms. Mapp. She grabbed it, but before she could read it, the police officer grabbed it back and proceeded to handcuff her.

The police searched through the entire house but did not find the fugitive from justice. They did, however, find some pornographic materials in an old trunk in the basement. Ms. Mapp claimed that the materials were not hers but was arrested and later found guilty of possessing the obscene materials. She was sentenced to a year in jail. Her attorneys argued that her Fourth Amendment right to be protected against unreasonable searches and seizures had been violated. The State argued that no matter how badly the police behaved, their actions did not change the facts in the case. She was guilty of possessing the obscene materials, therefore, her conviction should not be overturned. The State attorneys also argued that the Court should follow the earlier Wolf decision and let the states handle police excesses in their own way.

The U. S. Supreme Court disagreed with the state of Ohio's attorneys, and threw out Mapp's conviction. The Court would not tolerate such an abuse of power exhibited by the Cleveland police.

Since 1961, there has been many discussions and disagreement over the exclusionary rule. In recent years, the U.S. Supreme Court has approved a number of exceptions to the exclusionary rule.*

"If a criminal defendant takes the stand to testify in their own defense, evidence illegally seized can be used to impeach the witness."

"Courts can admit illegally seized evidence if it is more likely than not that, in time, police would have discovered the evidence legally."

"Evidence gathered by police acting in good faith can be admitted if the police are reasonably relying on a search warrant which turns out to be technically defective or, through a judge's error, turns out not to be based on probable cause."

**Exceptions to Warrant Requirements ***

**S** - Stop 'N Frisk
**E** - Emergencies
**A** - Arrests, abandoned property, airline or border searches
**R** - Right in PLAIN VIEW
**C** - Cars, consent
**H** - Hot Pursuit

* (Exceptions taken from THE DRUG QUESTION: THE CONSTITUTION AND PUBLIC POLICY, 1990, the Constitutional Rights Foundation)

## BACKGROUND INFORMATION

The scripted trial, Indiana v. Jamie L. Curtis is based on the U.S. Supreme Court case of New Jersey v. T.L.O. (469 U.S. 325, 1985). At Piscataway High School in Middlesex County, New Jersey, a teacher discovered two girls smoking cigarettes in a school restroom. Both girls were escorted to the principal's office and were confronted by the vice principal. One of the girls admitted that she was smoking, but the other girl, 14 year old T.L.O. denied the accusation. The vice principal took T.L.O. into a private office and asked to examine her purse. While searching the purse, he found a package of cigarettes and a package of cigarette rolling papers. Based on his experience as a vice principal, he associated the rolling papers with smoking marijuana. Because of his suspicion, he decided to search the entire purse. He found a small amount of marijuana, a pipe, several empty plastic bags, a large sum of money, a list of names which appeared to be students who owed her money, and two letters that implicated her as a drug dealer.

T.L.O. later admitted to selling marijuana, but her attorneys acted to suppress the evidence because the search of T.L.O.'s purse was unreasonable. In a 5-4 decision, the Court concluded that school officials do not need a search warrant or "probable cause" to conduct a reasonable search of a student. Unlike the police and other government agents in society at-large, school officials were given the right to conduct searches and seizures based only on a "reasonable" suspicion that wrong-doing would be discovered. Justice White, writing for the majority, reasoned that the special characteristics of school settings and teacher-student relationships "make it unnecessary to afford students the same constitutional protections granted adults and juveniles in a non-school setting."

The T.L.O. case raises interesting constitutional issues. For example, should the rights of students be limited in school settings as suggested by the U.S. Supreme Court? What is the difference between "probable cause" and "reasonable suspicion"? What kind of searches are reasonable and what kind are unreasonble? Do constitutional rights apply in private schools?

The quest to understand the Constitution and Bill of Rights involves the notion that citizens in a democracy need to balance conflicting values. The inevitable paradox between the protection of individual rights and the need for an ordered society is at the heart of all constitutional questions. The particular values addressed in Indiana v. Jamie L. Curtis involve the balance between a student's right to be protected against unreasonable searches and seizures and the schools need to contain a drug problem that disrupts the school environment. Where do you draw the line?

## LEARNING OBJECTIVES

## INDIANA v. JAMIE L. CURTIS

1. After completion of the role-play and debrief, the participants will be able to analyze Indiana v. Jamie L. Curtis and decide whether the search of Jamie's bookbag was reasonable.

2. After completion to the role-play and debrief, the participants will be able to explain the exclusionary rule and apply it to new and different situations involving searches and seizures.

3. After completion of the role-play and debrief, the participants will be able to apply the ruling in New Jersey v. T.L.O. to searches and seizures in schools.

4. After completion of the role-play and debrief, the participants will be able to site examples of exceptions to the need for warrants to conduct reasonable searches and seizures.

5. After completion of the role-play and debrief, the participants will be able to site an example of where an individual's protection against unreasonable searches and seizures comes into conflict with the need for an ordered society.

# Participants

Judge - J. Marshall

Bailiff - Terry Bull

Defendant - Jamie L. Curtis

Defense Council #1 - Kim Rehnquist

Defense Council #2 - Sandy Brennan

Prosecution #1 - Shawn Thomas

Prosecution #2 - Tracy Spencer

Witness for the Defense - Professor K. Hall

Witness for the Prosecution - Pat Borman, Teacher

Witness for the Prosecution - Vice Principal Weeks

Jurors (1-12)

**Bailiff:** (STAND) All rise. The Superior Court for the State of _____, is now in session. The Honorable J. Marshall presiding.

**Judge:** (ENTER THE ROOM AND TAKE YOUR SEAT) Please be seated. This is the case of the State of _____ versus Jamie L. Curtis which involves the charge that the defendant violated Criminal Code #35-28-4-11 and is charged with possession of less than 30 grams of marijuana. Court is now in session. (STRIKE THE GAVEL) Is the Prosecution ready?

**Prosecution #1:** (STAND) Yes, your Honor. (SIT DOWN)

**Judge:** Is the Defense ready?

**Defense #1:** (STAND) Yes, your Honor. (SIT DOWN)

**Judge:** (LOOK AT THE PROSECUTION) Counsel, you may proceed with your opening argument.

**Prosecution #1:** (STAND, WALK AROUND THE TABLE AND LOOK AT THE JUDGE AND THE JURY) Your Honor, the State will prove beyond a reasonable doubt that the defendant, Mr./Ms. Jamie Curtis violated criminal code #35-28-4-11 and by doing so is guilty of the charge of possession of less than 30 grams of marijuana. The State will show the following facts in this case. On the morning of November 27, 1991, Vice Principal Weeks was informed by a teacher that a student, Jamie Curtis, was smoking a cigarette in one of Privacy High School's restrooms. In the office, Vice Principal Weeks asked Jamie Curtis, if in fact he/she was smoking. Jamie Curtis denied smoking in the restroom. Having a reasonable suspicion to continue the search, Vice Principal Weeks asked Jamie to hand over his/her book bag. In the book bag Vice Principal Weeks found cigarettes. Vice Principal Weeks decided to look further into the book bag and found a plastic bag with a small amount of marijuana. He/she then

called the state juvenile authorities. Upon their arrival, Jamie was read his/her rights and arrested for possession of marijuana.

Ladies and Gentlemen of the Jury, the State will rely on two witnesses to prove its case. They will testify that Jamie Curtis is guilty of the crime charged. You will hear from Mr./Ms. Jan Borman, the teacher who witnessed the search of Jamie's book bag in the vice principal's office. You will also hear from Vice Principal Weeks who will testify that he/she acted in a reasonable manner in conducting the search of Jamie Curtis's book bag. From the evidence you are about to hear, you will have no choice but to find the defendant guilty of the crime charged. Thank you. (SIT DOWN)

**Judge:** Thank you, The Court will now hear the Defense's opening statement.

**Defense #1:** (STAND, WALK AROUND THE TABLE AND LOOK AT JURY) Your Honor, the Defense intends to show the following facts in this case. First of all, after finding cigarettes in Jamie's book bag, Vice Principal Weeks continued to search through the book bag, without a warrant and without reasonable suspicion. Secondly, this action taken by the vice principal denied Jamie his/her Fourth Amendment right to be protected against unreasonable searches and seizures.

Ladies and Gentlemen of the Jury, the search that the vice principal conducted was illegal. The evidence gathered in this search should not be used in this case. In the important 1961 case of Mapp v. Ohio, the U. S. Supreme Court expanded the rights of the accused by suggesting that evidence collected in an illegal manner can be excluded from the case. The Exclusionary Rule means that the evidence gathered without a warrant or without probable cause should not be used against the accused. Through the testimony of Jamie Curtis and Professor K. Hall you will hear how Jamie's Fourth Amendment right to be protected against unreasonable searches and seizures has been denied. Jamie Curtis should be found not guilty because evidence being presented by the prosecution has been collected illegally. Thank you. (SIT DOWN)

**Judge:** Thank you. Will the Prosecution please call its first witness.

**Prosecution #1:** (STAND) The state calls Mr./Ms. Jan Borman. (SIT DOWN)

**Borman:** (MOVE TO WITNESS STAND AND REMAIN STANDING)

**Bailiff:** (APPROACH WITNESS STAND) Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

**Borman:** I do. (SIT DOWN)

**Bailiff:** (RETURN TO YOUR CHAIR)

**Prosecution #1:** (STAND AND APPROACH THE WITNESS) State your name for the court, please.

**Borman:** Jan Borman.

**Prosecution #1:** Where do you work, Mr./Ms. Borman?

**Borman:** I am a teacher at Privacy High School.

**Prosecution #1:** Were you at school on the morning of November 27, 1991?

**Borman:** Yes, I was.

**Prosecution #1:** Did anything unusual happen that day?

**Borman:** I should say so; I caught a drug dealer smoking cigarettes in the restroom.

**Defense #1:** (STAND) Objection, your Honor. The witness is expressing an opinion.(SIT DOWN)

**Judge:** Sustained. (LOOK AT THE JURY) Please disregard the witness's statement.

**Prosecution #1:** Mr./Ms. Borman, please tell the jury what happened on the morning in question.

**Borman:** Just before first period was about to begin I was walking past the restrooms as Jamie Curtis was coming out. I saw and smelled cigarette smoke coming from the restroom.

**Prosecution #1:** What happened then?

**Borman:** I accused Jamie of smoking cigarettes and asked him/her to follow me down to the vice principal's office.

**Prosecution #1:** What happened next?

**Borman:** Vice Principal Weeks asked Jamie if he/she had been smoking.

**Prosecution:** How did Jamie respond?

**Borman:** Jamie lied and said he/she hadn't been smoking.

**Defense #2:** (STAND) Objection, your Honor. The witness is expressing an opinion. (SIT DOWN)

**Judge:** Sustained. (TO THE WITNESS) Please refrain from opinionated responses.

**Prosecution #1:** What happened after that?

**Borman:** Vice Principal Weeks asked Jamie to see his/her book bag.

**Jamie Curtis:** (STAND) That's a lie! Vice Principal Weeks made me give him/her the book bag. (SIT DOWN)

**Judge:** (STRIKE THE GAVEL) Will the defendant please refrain from any outbursts in the courtroom. (TO THE PROSECUTION) Please continue.

**Prosecution #1:** What happened after Jamie gave the book bag to Vice Principal Weeks?

**Borman:** Vice Principal Weeks looked in the book bag and found a pack of cigarettes.

**Prosecution #1:** Why did Vice Principal Weeks decide to look further into the book bag?

**Borman:** He/She is the vice principal. He/She has every right to look deeper into the book bag if he/she wants to.

**Prosecution #1:** Did he/she find anything else?

**Borman:** Yes, Vice Principal Weeks found a plastic bag with a small amount of marijuana.

**Prosecution #1:** (GIVE PROSECUTION'S EXHIBIT "A" TO BAILIFF FOR MARKING) Your Honor, I ask that this plastic bag containing marijuana be marked for identification as Prosecution's Exhibit "A."

**Bailiff:** (MARK WITH A LETTER "A" AND HAND BACK TO THE PROSECUTION)

**Prosecution #1:** (SHOW THE EVIDENCE TO THE WITNESS) Do you recognize this plastic bag which is marked Prosecution's Exhibit "A"?

**Borman:** Yes, I believe it is the plastic bag that Vice Principal Weeks found in Jamie's book bag.

**Prosecution #1:** (PLACE THE EVIDENCE BACK ON YOUR TABLE) (LOOK AT JUDGE) Your Honor, I offer this plastic bag for admission into evidence as Prosecution's Exhibit "A" and ask the Court to so admit it.

**Judge:** You may proceed.

**Prosecution #1:** Thank you, Mr./Ms. Borman. I have no further questions, your Honor. (LOOK AT THE DEFENSE) Your witness. (SIT DOWN)

**Defense #1: (STAND AND APPROACH THE WITNESS)** Mr./Ms. Borman, how long have you been a teacher?

**Borman:** This is my second year.

**Defense #1:** So you are not a very experienced teacher, are you?

**Prosecution #1:** (STAND) Objection, your Honor. This line of questioning is irrelevant to the case. (SIT DOWN)

**Judge:** Sustained. Please continue.

**Defense #1:** Why did you not believe Jamie when he/she denied smoking cigarettes in the restroom?

**Borman:** You can't believe kids like Jamie. Believe me, I can tell when someone is lying.

**Defense #1:** Isn't it true that last year you got an award for confronting the most students for smoking on school grounds?

**Borman:** (VERY PROUD) Yes, that's true, I did get an award.

**Defense #1:** And isn't it true that more than half of those students denied smoking?

**Borman:** Yes, but they all lied!

**Defense #1:** Isn't it true that Vice Principal Weeks searched Jamie's book bag without reasonable suspicion?

**Borman:** Vice Principal Weeks had reasonable suspicion. Any time you are dealing with a student and drugs, you have reasonable suspicion.

**Defense #1:** Mr./Ms. Borman, do you think that it is possible that Vice Principal Weeks violated Jamie's Fourth Amendment right to be protected against unreasonable searches and seizures when he/she searched the book bag after the cigarettes were found?

**Borman:** No, I do not.

**Defense #1:** Your Honor, I have no further questions. (SIT DOWN)

**Judge:** (LOOK AT THE WITNESS) You may step down. (LOOK AT THE PROSECUTION) Will the Prosection please call its next witness.

**Prosecution #2:** (STAND) The Prosecution calls Vice Principal Weeks to the stand. (SIT DOWN)

**Weeks:** (MOVE TO THE WITNESS STAND AND REMAIN STANDING)

**Bailiff:** (APPROACH THE WITNESS STAND) Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

**Weeks:** I do. (SIT DOWN)

**Bailiff:** (RETURN TO YOUR SEAT)

**Prosecution #2:** (STAND AND APPROACH THE WITNESS) State your name for the court.

**Weeks:** My name is Vice Principal Weeks.

**Prosecution #2:** How long have you worked at Privacy High School?

**Weeks:** I taught high school government for ten years and I have been the vice principal for the past five years.

**Prosecution #2:** Do you have a family?

**Weeks:** Yes I do. I have been married for eight years, I have two children and I teach Sunday School at our local church.

**Prosecution #2:** What happened on the morning of November 27, 1991?

**Weeks:** Just before first period, Mr./Ms. Borman came to my office with Jamie Curtis.

**Prosecution #2:** Was there a problem?

**Defense #1:** (STAND) Objection, your Honor. The Prosecution is leading the witness. (SIT DOWN)

**Judge:** Sustained. Please re-phrase your question.

**Prosecution #2:** What happened next?

**Weeks:** Mr./Ms. Borman explained to me that he/she had caught Jamie smoking cigarettes in the restroom.

**Prosecution #2:** What did you do, then?

**Weeks:** I asked Jamie if he/she had been smoking cigarettes in the restroom.

**Prosecution #2:** How did Jamie respond?

**Weeks:** Jamie denied smoking in the restroom.

**Prosecution #2:** Is there a school policy that deals with cigarettes?

**Weeks:** Yes there is. It states that cigarette products are not allowed on school grounds.

**Prosecution #2:** What happened next?

**Weeks:** I asked Jamie for his/her book bag.

**Jamie:** (STAND) That's a lie, you scared me into giving you the book bag! (SIT DOWN)

**Judge:** (POUND THE GAVEL) One more outburst like that young man/lady and I will have you removed from this courtroom.

**Jamie:** (STAND) I'm sorry, your Honor. (SIT DOWN)

**Judge:** (LOOK AT THE PROSECUTION) Please continue.

**Prosection #2:** Did Jamie give you his/her book bag?

**Weeks:** Yes, Jamie did.

**Prosecution #2:** What happened next?

**Weeks:** I looked into the book bag and found cigarettes.

**Prosecution #2:** Did you stop searching the book bag at this point?

**Weeks:** No, I did not.

**Prosecution #2:** Why, then, did you continue to search the book bag?

**Weeks:** As I was taking the cigarettes out of the book bag, I remembered that I had recently spoken with a teacher who believed Jamie might be smoking more than just cigarettes. I thought it would be reasonable to continue the search. Who knows what you might find.

**Prosecution #2:** In other words, you had reasonable suspicion to believe that possibly more cigarettes were in the book bag and maybe drugs too.

**Defense #1:** (STAND) Objection, your Honor. The Prosecution is leading the witness. (SIT DOWN)

**Judge:** Sustained, please re-phrase the question.

**Prosecution #2:** What did you discover in the more thorough search?

**Weeks:** I did a complete search of the book bag and found a plastic bag containing a small amount of marijuana in a side pocket.

**Prosecution #2:** What did you do then?

**Weeks:** I called the state juvenile authorities. They came to the school, read Jamie Curtis his/her rights and arrested Jamie on the charge of possession of marijuana.

**Prosecution #2:** I have no further questions, your Honor. (LOOK AT THE DEFENSE) Your witness. (SIT DOWN)

**Defense #2:** (STAND AND APPROACH THE WITNESS) Vice Principal Weeks, you testified that Jamie gave you the book bag after you asked for it. Is this not correct?

**Weeks:** Yes, that is correct.

**Defense #2:** In your position as vice principal, isn't it possible for you scare students?

**Weeks:** I'm not sure what you mean.

**Defense #2:** Wouldn't you say that you possess a certain amount of control over the students at Privacy High School?

**Weeks:** I would say that an effective vice principal has to exert a certain amount of control over students to insure discipline and a healthy learning environment.

**Defense #2:** Isn't taking a book bag by scaring them kind of like getting a forced confession?

**Weeks:** No, I wouldn't say so.

**Defense #2:** Vice Principal Weeks, you testified that after finding the cigarettes in Jamie's book bag you continued to search because you had a suspicion about Jamie.

**Weeks:** Yes, that is true.

**Defense #2:** Vice Principal Weeks, do you consider a book bag to be a student's private property? In other words, does a person have a reasonable expectation of privacy in his or her book bag?

**Weeks:** Yes, I would say so.

**Defense #2:** Even though a student has an expectation of privacy, you went ahead and searched the book bag without a reasonable suspicion or without probable cause?

**Weeks:** No, no, I had reasonable suspicion! Besides I found drugs, doesn't that count for something?

**Defense #2:** Vice Principal Weeks, the word of a teacher who thinks someone is smoking marijuana is not reasonable suspicion. It is more like the evidence the Nazis used to round up their victims. The ends do not justify the means. I have no further questions, your Honor. (SIT DOWN)

**Judge:** (LOOK AT THE WITNESS) You may step down. (LOOK AT THE PROSECUTION) Will the Prosection call its next witness.

**Prosecution #2:** (STAND) Your Honor, the State rests. (SIT DOWN)

**Judge:** (LOOK AT THE DEFENSE) Will the Defense call its first witness.

**Defense #1:** (STAND) The Defense calls Professor K. Hall to the stand. (SIT DOWN)

**Hall:** (MOVE TO THE WITNESS STAND AND REMAIN STANDING)

**Bailiff:** (APPROACH WITNESS) Raise your right hand, please. Do you swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?

**Hall:** I do (SIT DOWN)

**Bailiff:** (TAKE YOUR SEAT)

**Defense #1:** (STAND AND APPROACH THE WITNESS) State your name for the Court?

**Hall:** Professor K. Hall.

**Defense #1:** Professor Hall, where do you work?

**Hall:** I am a professor of law at Minnesota State University.

**Defense #1:** How long have you worked there?

**Hall:** I have taught law for the past 20 years.

**Defense #1:** Are you familiar with the Exclusionary Rule and the Fourth Amendment's protection against unreasonable searches and seizures?

**Hall:** Yes, I am. One of the courses I teach covers this topic. In addition, I have written several articles dealing with the Fourth Amendment.

**Defense #1:** Professor Hall, can you explain the rule?

**Hall:** In 1914 the Exclusionary Rule was first justified by the U.S. Supreme Court for two major reasons. First, The fruit of a poisoned tree is as poisonous as the tree itself. That is, evidence resulting from illegal activity is, like the activity, stained with illegality and injustice. And second, if the courts base decisions on this "ill-gotten gain," they have participated in the illegality, and their decisions are unjust.

**Defense #1:** What about searches and seizures?

**Hall:** In order to obtain a search warrant from a judge, a police officer needs probable cause that a wrong has been committed and the warrant must be very specific.

**Defense #1:** Have there been cases where evidence was ruled out because of how the search was carried out?

**Hall:** Oh, yes. In 1961 the Supreme Court overturned the conviction of Ms. Mapp, who was found guilty of possessing pornographic materials, because the police search of her house was found to be illegal.

**Defense #1:** In your expert opinion, did Vice Principal Weeks have reasonable suspicion to continue the search of Jamie's book bag after the cigarettes were found?

**Prosecution #2:** (STAND) Objection, your Honor. Defense is asking the witness to express an opinion. (SIT DOWN)

**Defense #1:** Your Honor, I believe that I have established that Professor Hall is an expert concerning constitutional issues, therefore he/she should be allowed to answer the question.

**Judge:** Overruled. (TO THE WITNESS) You may answer the question.

**Hall:** No, I do not. I believe people have an expectation of privacy, especially when privacy involves something like a personal book bag.

**Defense #1:** Professor Hall, what is the difference between probable cause and reasonable suspicion?

**Hall:** In 1985, the U.S. Supreme Court decided the case of New Jersey versus T.L.O. In that case, the Court argued that a principal of a school does not need probable cause to search a person's belongings; rather, the principal needs only reasonable suspicion to conduct a search.

**Defense #1:** Based on what you have just told the Court, would you agree that the search of Defendant Jamie Curtis's book bag was illegal?

**Prosecution #2:** (STAND) Objection, your Honor, counsel is leading the witness. (SIT DOWN)

**Judge:** Sustained. Please re-phrase your question.

**Defense #1:** In your expert opinion, was the search of Jamie's book bag illegal?

**Hall:** I believe the search was questionable, therefore the evidence gathered by the search should be excluded and should not be considered in any decision made by this court.

**Defense #1:** Did Vice Principal Weeks deny Jamie his/her Fourth Amendment right to be protected against unreasonable searches and seizures?

**Hall:** Yes, I believe that Vice Principal Weeks did not have a reasonable suspicion to continue the search, therefore Jamie's Fourth Amendment right was denied.

**Defense #1:** No further questions, your Honor. (LOOK AT THE PROSECUTION) Your witness. (SIT DOWN)

**Prosecution #1:** (STAND AND APPROACH THE WITNESS) Professor Hall, you testified that there is a difference between probable cause and reasonable suspicion, did you not?

**Hall:** Yes, I did.

**Prosecution #1:** Isn't it true that having reasonable suspicion is a lot less than having probable cause?

**Hall:** It is certainly less, but I do not know how much less.

**Prosecution #1:** Isn't it true that a school official generally does not need a search warrant to search a student's belongings?

**Hall:** Yes, it is true.

**Prosecution #1:** Professor Hall, you testified that you believed that Vice Principal Weeks denied Jamie his/her Fourth Amendment rights by continuing to search the book bag, did you not?

**Hall:** Yes, I did.

**Prosecution #1:** Isn't it true that in 1986, Retired Chief Justice Warren Burger, writing the majority opinion in Bethel School District v. Fraser, suggested that students in school settings do not automatically have the same rights as adults?

**Hall:** Yes, you are correct.

**Prosecution #1:** Then, isn't it possible that Vice Principal Weeks did not deny Jamie Fourth Amendment rights because the search took place in a school and was conducted with reasonable suspicion?

**Hall:** I guess it is possible.

**Prosecution #1:** I have no further questions, your Honor. (SIT DOWN)

**Judge:** (TO THE WITNESS) You may step down. (LOOK AT THE DEFENSE) Counsel, you may call your next witness.

**Hall:** (RETURN TO YOUR CHAIR)

**Defense #2:** (STAND) Your Honor, the Defense calls the defendant, Jamie L. Curtis, to the stand. (SIT DOWN)

**Jamie:** (MOVE TO THE WITNESS STAND AND REMAIN STANDING)

**Bailiff:** (APPROACH THE WITNESS) Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

**Jamie:** I do. (SIT DOWN)

**Bailiff:** (RETURN TO YOUR CHAIR)

**Defense #2:** (STAND AND APPROACH THE WITNESS) State your name for the Court.

**Jamie:** My name is Jamie L. Curtis.

**Defense #2:** Jamie, where do you go to school?

**Jamie:** I am a junior at Privacy High School.

**Defense #2:** Tell us about the morning of November 27th.

**Jamie:** Well, I was getting ready to go to my first hour class. As I was leaving the restroom, Mr./Ms. Borman stopped me and accused me of smoking cigarettes in the restroom. I told him/her I wasn't smoking, but he/she did not believe me because he/she smelled smoke, so I.....

**Prosecution #1:** (STAND) Objection, your Honor. The witness is giving us a narrative.(SIT DOWN)

**Judge:** (TO THE WITNESS) Please keep your answers brief and to the point. (TO THE DEFENSE) Counsel, please ask the witness more specific questions.

**Defense #2:** Jamie, what happened after Mr./Ms. Borman told you he/she did not believe you?

**Jamie:** I told Mr./Ms. Borman that the restroom always smells like cigarette smoke.

**Defense #2:** What did Mr./Ms. Borman say?

**Prosecution #1:** (STAND) Objection, your Honor. The question is asking for hearsay.(SIT DOWN)

**Judge:** Sustained, Counsel please re-phrase your question.

**Defense #2:** What happened next?

**Jamie:** Mr./Ms. Borman took me down to the vice principal's office anyway.

**Defense #2:** What happened in the vice principal's office?

**Jamie:** Vice Principal Weeks told me to give him/her my book bag.

**Defense #2:** Did Vice Principal Weeks ask you if he/she could look into your book bag?

**Jamie:** No he/she did not. He/She opened the book bag and began to look through it.

**Defense #2:** Did the vice principal find anything?

**Jamie:** Yes, he/she found cigarettes, but I wasn't smoking them in school.

**Defense #2:** What happened next?

**Jamie:** For no reason Vice Principal Weeks continued to search my book bag.

**Defense #2:** Jamie, do you ever carry any personal items in your book bag?

**Jamie:** All the time. I carry my diary and other personal things. I don't expect people to look inside. It's private.

**Defense #2:** Your Honor, I ask that this book bag be marked for identification as Defense's Exhibit "A." (HAND THE BOOK BAG TO THE BAILIFF FOR MARKING)

**Bailiff:** (MARK THE BOOK BAG WITH AN "A" AND HAND THE BOOK BAG BACK TO THE DEFENSE)

**Defense #2:** (SHOW THE BOOK BAG TO THE WITNESS) Jamie, do you recognize this book bag which is marked as Defense's Exhibit "A"?

**Jamie:** Yes, it is mine.

**Defense #2:** Your Honor, I offer this book bag for admission into evidence as Defense Exhibit "A" and ask the Court to so admit it.

**Judge:** You may proceed.

**Defense #2:** Show the Court where Vice Principal Weeks found the cigarettes.

**Jamie:** Vice Principal Weeks opened the book bag. (SHOW THE JURY) Right on top were the cigarettes.

**Defense #2:** Jamie, are you aware that Vice Principal Weeks also found a small amount of marijuana in your book bag?

**Jamie:** Yes, but I don't know how it got there.

**Prosecution #2:** That's a lie.

**Judge:** (HIT THE GAVEL) One more outburst like that counsel and I will find you in contempt.

**Defense #2:** Show the Court where Vice Principal Weeks found the marijuana in your book bag.

**Jamie:** He/She found the marijuana in a side pocket.

**Defense #2:** You mean that Vice Principal Weeks searched all through your book bag and then searched in a side pocket too.

**Prosecution #1:** (STAND) Objection, your Honor. Counsel is leading the witness. (SIT DOWN)

**Judge:** Sustained. Please re-phrase your question.

**Defense #2:** No further questions, your Honor. (TO THE PROSECUTION) Your witness. (SIT DOWN)

**Prosecution #2:** (STAND AND APPROACH THE WITNESS) Jamie, you testified that you don't know how the marijuana got in your book bag. Is that not true?

**Jamie:** Yes, I don't know.

**Prosecution #2:** It seems pretty unlikely that the marijuana just appeared in your book bag. How do you explain it being there?

**Jamie:** I can't. I guess someone put it in the pocket of my book bag when I was in the restroom.

**Prosection #2:** That seems highly unlikely.

**Jamie:** I don't know, I tell you! But one thing I know, it's not mine!

**Prosecution #2:** Jamie, do you think it is the vice principal's job to make sure that students are following school rules?

**Jamie:** Yes, it is part of the job.

**Prosecution #2:** And do you think it is part of the job of the vice principal to ensure that Privacy High School is drug-free?

**Jamie:** I guess so.

**Prosecution #2:** Don't you think it was reasonable for Vice Principal Weeks to search your book bag, especially when you understand his/her job responsibilities?

**Jamie:** No, I do not, Mr./Ms. Weeks did not have reasonable suspicion, therefore he/she should not have searched through my book bag. I wasn't smoking cigarettes and the marijuana is not mine.

**Prosecution #2:** I have no further questions, your Honor. (SIT DOWN)

**Judge:** (TO THE WITNESS) You may step down. (TO THE DEFENSE) Will the Defense call its next witness.

**Defense #1:** (STAND) The Defense rests, your Honor. (SIT DOWN)

**Judge:** (LOOK AT THE PROSECUTION) Does the Prosecution wish to make a closing argument?

**Prosecution #2:** (STAND) We do, your Honor.

**Judge:** You may proceed.

**Prosecution #2:** (APPROACH THE JURY) Ladies and gentlemen of the jury, I want to thank you for being so patient during this very important trial. It is my opinion that the State has proven beyond a reasonable doubt that the Defendant, Jamie L. Curtis, is guilty of violating Criminal Code #35-2?-4-11, possession of less than 30 grams of marijuana. Through the testimony of Pat Borman, a teacher at Privacy High School, you have heard how he/she discovered Jamie smoking in a school restroom. You have heard how Mr./Ms. Borman escorted Jamie to the vice principal's office where Vice Principal Weeks searched Jamie's book bag, having a reasonable suspicion to do so. From the testimony of Vice Principal Weeks, you have heard how he/she not

only found cigarettes, but also found a small amount of marijuana inside Jamie's book bag. Vice Principal Weeks did not violate Jamie's Fourth Amendment right to be protected from unreasonable searches and seizures because the search was reasonable.

Ladies and gentlemen, the State again thanks you for your civic participation and asks that you return a verdict of guilty. (SIT DOWN)

**Judge:** (LOOK AT THE DEFENSE) Does the Defense wish to make a closing argument?

**Defense #2:** (STAND) We do, your Honor.

**Judge:** You may proceed.

**Defense #2:** (APPROACH THE JURY) Ladies and gentlemen of the jury, the Defense would also like to thank you for your time and patience in listening here today. I agree with the Prosecution on one point. This is an important trial. It is important because a citizen's right to be protected against unreasonable searches and seizures is a fundamental part of our Bill of Rights. It is the protection that ordinary people have against intrusions from the State. From the testimony of Professor K. Hall, you heard how evidence that is gathered illegally should not be used to prove guilt. In my opinion, the search of Jamie's book bag was questionable. People in a democracy have an expectation of privacy when it comes to personal items like book bags. From the testimony of Jamie Curtis, you heard how the search was conducted and that Jamie denies both smoking in the restroom and possession of marijuana.

Ladies and gentlemen, there is a reasonable doubt that Jamie is guilty of the charge brought by the State and Jamie's Fourth Amendment right to be protected from unreasonable searches and seizures has been violated. I ask that you find the defendent, Jamie Curtis not guilty. Thank you. (SIT DOWN)

**Judge:** (LOOK AT THE JURY) You have heard the evidence in this case. It is now your job to decide whether the Defendant, Jamie L. Curtis, is guilty of possession of marijuana. Let me remind you that if you believe that the search of Jamie's book bag was unreasonable, in this situation, then you may find the defendant not guilty, even if you believe the marijuana was Jamie's. Secondly, the State must prove beyond a reasonable doubt its charge. If not, then you must also find the defendant not guilty. However, if you believe the search was reasonable and that the marijuana was Jamie's, then you must find the defendant guilty. Please go with the Bailiff to the jury room and make your decision. When you have decided a unanimous verdict, please return to the courtroom and inform the Court.

**Bailiff:** All rise. (LEAD JURY TO JURY ROOM)

**Jury:** (FOLLOW THE BAILIFF TO THE JURY ROOM)

**Judge:** (AFTER JURY HAS LEFT) Please, be seated.

**Jury:** (RETURN TO THE JURY BOX)

**Bailiff:** All rise.

**Judge:** Please be seated. Have you reached a verdict?

**Head Juror:** (STAND) Yes, your Honor.

**Judge:** Please read the verdict.

**Head Juror:** We find the defendant Jamie L. Curtis, **GUILTY/NOTGUILTY.**

**Judge:** This Court is adjourned. (STRIKE THE GAVEL)

# INSTRUCTIONS FOR THE JURY

**In this case, you have to decide whether or not Jamie L. Curtis is guilty of the charge of possession of marijuana.**

**QUESTIONS TO CONSIDER: In order to determine the guilt or innocence of Jamie, please consider the following questions:**

**1) Do you believe the search of Jamie's book bag by Vice Principal Weeks was based on reasonable suspicion? _____ yes _____ no**

**2) Do you believe the marijuana belonged to Jamie? _____ yes _____ no**

**If you answered yes to both questions, you *should* find the defendant, Jamie Curtis, GUILTY.**

| | Yes | No |
|---|---|---|
| Question 1 | X | |
| Question 2 | X | |

**If you answered no to both questions, you *should* find the defendant, Jamie Curtis, NOT GUILTY.**

| | Yes | No |
|---|---|---|
| Question 1 | | X |
| Question 2 | | X |

**If you answered yes to question (1) and no to question (2), you *should* find the defendant, Jamie Curtis, NOT GULITY.**

| | Yes | No |
|---|---|---|
| Question 1 | X | |
| Question 2 | | X |

**If you answered no to question (1) and yes to question (2), you *should* find the defendant, Jamie Curtis, NOT GUILTY.**

| | Yes | No |
|---|---|---|
| Question 1 | | X |
| Question 2 | X | |